

APPENDIX 4

Excerpts from Deposition of
Richard Moyed

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1 has been the same. I'm not aware of any changes AAA
2 has made to that system, but I -- I have to add that
3 when APA adopted electronic voting it was before my
4 time with APA.

5 Q. Okay. And when did you begin with APA?

6 A. I started with APA in June of 2002, and it
7 was -- sometime later that year; I don't remember the
8 exact point that I took over as Election
9 Administrator.

10 Q. To your knowledge, was there a complaint
11 filed by a Mark Hunnibell challenging the 2004
12 National Officer elections?

13 A. Yes, there was.

14 Q. Okay. And to your knowledge, what was the
15 substance of that complaint?

16 A. That's an extremely difficult question to
17 answer because Mark Hunnibell's complaint was huge.
18 He had many, many, many different allegations on
19 that, and -- and I'm going to be honest, it's been
20 almost two years since this. I cannot recall every
21 -- every single allegation that -- that he made
22 there, but there were several.

23 Q. Do you recall whether there was an
24 allegation with respect to ballot secrecy for the
25 2004 National elections?

1 A. Yes. I -- I recall that he -- that that
2 was one of his allegations.

3 Q. Do you recall the nature of his allegation
4 with respect to secrecy?

5 A. Well, generally speaking, I think he was
6 saying that there was an identification between the
7 -- that -- that a voter's vote somehow somebody could
8 determine how a voter voted, or who they voted for.

9 Q. Was that allegation in a timely complaint
10 to the APA following the election?

11 A. I do not recall, because what I do recall
12 is is that Mr. Hunnibell filed a timely complaint and
13 -- and timely under our Constitution and Bylaws would
14 be within ten business days after the conclusion of
15 the election or the runoff election, if there is a
16 runoff. Subsequent to that ten-day period, Mr.
17 Hunnibell filed two subsequent -- what he labeled as
18 supplemental complaints, and I do not recall which of
19 those three complaints this allegation was contained
20 in.

21 Q. Okay. I'm going to hand you a document, a
22 couple of cover pages, and then it's numbered through
23 page 69. Would you identify that document for us?

24 A. This was the decision of the APA Appeal
25 Board on -- well, it's -- it's addressed to two

1 Q. Who generates the employee number?

2 A. That is a number generated by American
3 Airlines.

4 Q. So it's not the APA employee's number;
5 it's an American Airlines employee's number?

6 A. Yes. And we use the same numbers in our
7 database.

8 Q. Who has access to employees, employee
9 numbers, for American Airlines?

10 A. I can't answer that completely because I
11 do not know who at American Airlines has access to it
12 is. I can tell you who within APA would have access
13 to that.

14 Q. Please.

15 A. Essentially any member in good standing
16 would have access an employee's number because you
17 can do a member lookup on the web site and that would
18 -- on a private side of -- member side of the web
19 site, and that would supply the -- share the employee
20 number.

21 Q. So any APA member in good standing could
22 look up another APA member's employee number?

23 A. On the web site, yes, ma'am.

24 Q. On the web site. Okay. Could
25 administrators for the APA look up an employee's

1 they've been out on an extended sick leave or
2 personal of leave absence; so that list that we send
3 to AAA on the day before the voting ends is the
4 up-to-date list of who is eligible to vote.

5 Q. okay.

6 A. whose vote should be counted.

7 Q. okay. When we talked a little earlier
8 about any member in good standing and -- from the web
9 site get another member in good standing's, employee
10 identification number, what web site are we talking
11 about? The AP --

12 MR. HOFFMAN: I'm going to object to
13 the form of the question.

14 Q. (BY MR. STEWART) The APA's or the
15 American Airlines?

16 A. I do not know if there is an American
17 Airlines web site that employee numbers are listed
18 on.

19 Q. okay.

20 A. On the member side of the APA Web site,
21 that information can be obtained by another member.

22 Q. okay. What was the APA's expectation of
23 what the American Arbitration Association would do
24 with the information and the members list?

25 A. It's a pretty, I think, wide-open

1 question, but I'll -- I'll try to answer it. The
2 information as far as name and address was needed for
3 AAA to mail out voting instructions and personal
4 identification numbers.

5 The information concerning employee
6 I.D. is used because in the electronic system there's
7 two pieces of information a voter needs to put in and
8 that's the employee I.D. and the personal
9 identification number that's assigned by AAA.

10 As far as domicile goes, that's
11 primarily in the nomination round of voting is -- is
12 -- is needed because the election for the nomination
13 round the top three candidates in each domicile get
14 to move on to the next election, so you need to look
15 at each domicile, plus we report voting, the results
16 not only in a National Officer election not only for
17 the total votes for the -- for the entire membership
18 but by domicile.

19 Q. Okay. When the American Arbitration
20 Association received the information that you
21 forwarded, to your knowledge, did they generate or --
22 they or any contractor that they may have used
23 generate their own unique number to attach to that
24 information?

25 A. They or somebody they contracted with

1 electronically?

2 A. I believe it was stored electronically.

3 Q. Okay. What's the basis of that, please.

4 A. On information that was told to me by AAA.

5 Q. Did the APA seek specific details from the
6 AAA or from Get-A-Geek in terms of how the
7 information would be stored by the contractors?

8 A. I'm not sure I'm following your question.

9 I mean, what do you mean by specific information?

10 Q. I asked you where the information for PIN
11 numbers were kept and you said you believed that it
12 may be in a database, at least that's what I
13 understood your answer to be.

14 So now I'm asking you what information
15 the APA solicited from its contractors in terms of
16 how information would be gathered and stored.

17 A. Best I could answer that would be
18 representations of -- of made to -- made to us by AAA
19 that this information would be secured that -- and
20 through their use of their voting systems and their
21 two servers and everything that -- that was a secure
22 method and -- and that it complied with Federal laws
23 and regulations regarding the conduct of Union
24 elections. I know that's not specifically answering
25 your question, but that -- that's -- we relied on

1 representations made to us by AAA or who's in this
2 business of conducting elections in this business.

3 Q. And, again I asked, did they tell you
4 where that information would be stored?

5 A. Physically stored?

6 Q. Yes.

7 A. No.

8 Q. I want to back up and address an issue
9 that we talked about a little earlier.

10 You referred to the members-only side
11 of the APA's Web site. How do members log in to that
12 portion of the APA's Web site?

13 A. You go to the Internet and it's
14 www.alliedpilots.org. That would bring up a public
15 page of the Web site. On that page there's a member
16 sign-in and they would use their number and a
17 password that initially is assigned to the member by
18 the APA, but I believe can be changed by the member
19 later on. It's just kind of similar if you do online
20 banking or whatever; you enter in a number and a
21 password.

22 Q. Okay. Could anyone -- regardless of where
23 the PIN information was actually stored, to your
24 knowledge, was there any voter identification num --
25 information also stored with that number? I can

1 numeral No. IV in that letter?

2 A. Decision by the APA Secretary-Treasurer to
3 allow members to change their votes.

4 Q. okay.

5 MR. HOFFMAN: I assume we will get a
6 copy; when you enter something as an exhibit, the
7 Rules is that you give opposing side a copy of that
8 and usually at the time.

9 MS. PARKER: You can take a look at
10 that letter, you're welcome to it. But at the close
11 I'll make a copy of all the exhibits if you'd like,
12 although they will certainly be attached to the
13 transcript when it comes.

14 Q. (BY MR. PARKER) To your knowledge, was
15 one of the appendices -- we're going to have a copy
16 of this one made as well. One of the documents
17 in the appendices attached to that letter, a February
18 11th letter from Debra Hall to you --

19 A. I believe it was.

20 Q. -- regarding this election? Okay. Could
21 you identify this document that's currently marked
22 Chao Exhibit 341?

23 A. That is a letter to me dated February
24 11th, 2004 from Debra Hall of the Department of
25 Labor.

1 Q. okay. And could you tell me -- you can
2 summarize or you're certainly welcome to read it, or
3 what the gist of the letter from Debra Hall to you
4 was?

5 MR. HOFFMAN: I ob -- I object. The
6 letter speaks for itself.

7 THE WITNESS: She is alerting me to
8 what she terms a potential problem with allowing for
9 vote changes using a phone and Internet system.

10 Q. (BY MS. PARKER) Okay. And to your
11 knowledge, Mr. Hunnibell included that letter with
12 the com -- July 1st, 2004 challenge to the election?

13 A. I believe he did.

14 Q. Okay. And what's the basis of that
15 belief?

16 A. The basis of my belief is, number one,
17 that exhibit that you just handed me is labeled as a
18 Hunnibell exhibit and my memory from the time of the
19 filing of the complaint.

20 Q. Okay. Now, to vote in the 2004 APA
21 National Officer elections -- and when I say the
22 officer elections, I'm speaking of both the election
23 and the runoff election.

24 So let me ask you: Was there any
25 difference in the process for voting in the original

1 before the election, we send to AAA the list of
2 eligible voters. How that works, technically, in the
3 AAA system; that's beyond my knowledge. I probably
4 wouldn't understand it anyway.

5 Q. And I don't understand it. But I'm not
6 certain your response answered the question, and it
7 could just be how I asked the question, so I'm going
8 to try to rephrase the question.

9 What I want to know is, to your
10 knowledge, the system that was used in 2004 was
11 capable of linking a specific voter with the specific
12 vote cast by that voter?

13 A. Well, I know there's a system for
14 identifying whether a vote cast by a voter is from an
15 eligible voter. I do not know that there's a
16 connection between once that eligible voter is -- is
17 defined as an eligible voter that they can determine
18 what -- how that voter voted. That -- that part I
19 don't know.

20 Q. Okay. To determine whether an eligible --
21 to remove an eligible -- the ineligible voter's vote,
22 to your knowledge, would the system have needed to
23 know how that ineligible voter voted?

24 A. To my knowledge, I don't believe the
25 system would need to know how the ineligible voter

1 voted to remove that ineligible voter's vote.

2 Q. Okay. To your knowledge, the system did
3 not need to know that?

4 A. To my knowledge.

5 Q. Okay. The voting system also had a change
6 vote feature; is that correct? And we're talking
7 about the voting system used in the 2004 National
8 officer elections, APA's.

9 A. Yes, that is correct.

10 Q. Okay. And to change a vote, what
11 information did a voter need?

12 A. The same information that I testified to
13 before about what the voter would need to vote in the
14 first place.

15 Q. Okay. Could you just go ahead and let me
16 know what that information is?

17 A. Well, they would need to know either -- if
18 they're voting by telephone they would need to know
19 what phone number to call, they would need to know
20 their employee number, they would need to have their
21 personal identification number that AAA issued to
22 them. In voting by the Internet they would need to
23 know what web site to go to, the web address, they
24 would need to know the identifier to put in -- to get
25 to the APA National Officer election, and they would

1 need their employee number and personal
2 identification number.

3 Q. Okay. Now, when a voter changed his or
4 her vote in the 2004 National Officer elections,
5 would, to your knowledge, both votes be counted
6 towards the total votes?

7 A. Both votes. Are you referring -- when you
8 say both votes to the original vote and the changed
9 vote?

10 Q. Yes, sir.

11 A. No, the only vote that would be tallied
12 would be the last one he entered.

13 Q. Okay. So to your knowledge, the original
14 vote cast would have to be removed from the pool of
15 votes; is that accurate?

16 A. I'm not sure how that technically
17 happened, but if a voter went in on day one and voted
18 for voter A and then went in on day three and voted
19 for voter B, the system's going to count his vote
20 that he made on day three and not on day one.

21 Q. So although you don't know the technical
22 details, do you know in some way -- and when I say I
23 don't know -- taking the representations that you
24 made, but I understand you to say that, you know, in
25 some way that original vote is removed. Would that

1 be accurate, or is gone?

2 A. The original vote is not counted.

3 Q. okay. To your knowledge, how does the
4 system used by APA in the 2004 National Officer
5 elections keep track of what the original votes were?

6 A. I do not know.

7 Q. okay.

8 A. I mean, I don't know how it works
9 technically with the telephone and Internet voting
10 system.

11 Q. But in using or selecting a contractor, it
12 was the APA's purpose that, however they do it,
13 they'd figure out a way not to count votes that have
14 been changed. Would that be accurate?

15 A. Well, they would -- as I said before, the
16 last vote made by that voter would be counted.

17 Q. Did the APA seek any details with respect
18 to the election system to help it feel confident that
19 ineligible voters' votes would be able to be removed?

20 A. The APA acted and relied upon
21 representations that were made to us by AAA that with
22 APA providing AAA with the eligible voter list that
23 they would be able to have the system where only the
24 votes of the eligible votes would be counted.

25 Q. Okay. And what confidence did you receive

1 from AAA that they would be able to accurately tally
2 the election notwithstanding the changed vote
3 feature?

4 A. I'm not sure I understand your -- your
5 question. If you can maybe rephrase it or repeat it.

6 Q. I can. I can. It would be important for
7 APA to ensure that each vote gets counted. Would
8 that be correct?

9 A. Each vote from an eligible voter, yes.

10 Q. And it would be important for the AAA to
11 ensure that each vote from an eligible voter is
12 accurately counted. Would that be true?

13 A. Accurately counted meaning that if the
14 voter voted for candidate A that it reflects --
15 candidate A would get at that vote? Yes.

16 Q. Yes, yes. And it would be important, I
17 would assume, for there to be assurances that if a
18 voter came and changed his vote from candidate A to
19 candidate B that that change would be accurately
20 reflected in the final tally. Would that be --

21 A. The -- the vote would -- in the
22 hypothetical that you just gave, the vote would be
23 counted for candidate B in that voter.

24 Q. And then I'm asking what assurances, if
25 any, was given to the APA that that could happen in

1 the 2004 elections.

2 A. Best I can say to that is AAA represented
3 to us that it could be done.

4 Q. okay. Did you specifically discuss with
5 the AAA this change vote feature?

6 A. Did I specifically --

7 Q. No, I meant --

8 A. -- address that to APA?

9 Q. I'm talking to you. I said APA. Yes.

10 A. APA discussed the -- at that time with --
11 with AAA in that we wanted that feature, and they
12 assured us that it could be done. The next time, to
13 my knowledge, of when it was discussed was the
14 receipt of the letter from Ms. Hall.

15 Q. Okay. Now, without getting into any
16 technical aspects of the system, we know that voters
17 cast a vote and the AAA, either itself or through its
18 contractor, had that information, had the information
19 on the ballot regarding what vote was cast. Does
20 that make sense? I can -- I can try to rephrase it.

21 A. No it doesn't because I'm not sure when
22 you're saying that information what you're referring
23 to.

24 Q. Uh-huh. A voter voted in the 2004
25 elections, correct? But let's just say random voter

1 Q. okay. And when you say the system
2 complies with Federal rules, did the APA rely on the
3 AAA's representation that it complied with the
4 Federal rules, or did the APA say these are the
5 Federal rules as we understand it; your system needs
6 to meet these requirements?

7 A. We relied on representations by the AAA.

8 Q. okay. okay. Let's talk about -- I
9 understand you don't know the details about how these
10 servers worked. To your knowledge, did the APA's
11 contractors have stored in whatever manner, written,
12 electronic, in a database, that we don't know where
13 that database exists, did those contractors have the
14 names of voters for APA?

15 A. Yes.

16 Q. Did they have the employee identification
17 numbers for APA voters?

18 A. Yes.

19 Q. Did they have personal identification
20 numbers for APA voters?

21 A. Yes, but -- and I just want to go on the
22 rec -- APA did not.

23 Q. okay. But we're talking about the
24 contractors now.

25 A. Yes.

1 A. They were addressed to -- to AAA.

2 Q. Okay. Could you tell me what assurances
3 AAA gave the APA?

4 A. Well --

5 Q. -- to address the concerns that are
6 referenced in that letter?

7 A. Upon receipt of this letter, I forwarded
8 this letter to Jeff Zaino of AAA and I called Mr.
9 Zaino to talk about this letter and this subject, and
10 Mr. Zaino assured me that the system that they use
11 was in compliance with the LMRDA and -- and
12 regulations and that, in fact, people from AAA had
13 had conversations with Labor Department officials
14 concerning this and there was no problems raised, and
15 that Mr. Zaino would contact Ms. Hall to discuss this
16 matter with them, and I never heard another thing
17 about it since then.

18 Q. Okay. So if I understand your testimony,
19 you received the letter, you spoke with Mr. Zaino,
20 Mr. Zaino assured to AAA that its system complied.
21 Was there any additional follow-up? I know you said
22 you didn't hear anything. Did the APA do any
23 additional follow-up with respect to the concerns
24 addressed in that February 11th letter before the
25 2004 APA National Officer elections?

1 A. There was something in your question that
2 was wrong, but again, I'll just -- I called Mr. Zaino
3 of the AAA and he assured me that the system was
4 within the law and regulations, that there had been
5 prior discussions with Labor Department officials and
6 that he would be talking with Mr. Hall -- Ms. Hall,
7 I'm sorry, Debra Hall. I assumed that Mr. Zaino
8 would do as he said he would do and would get back to
9 me if there were any further problems. I never heard
10 back either from Mr. Zaino or from Ms. Hall or for
11 that matter from anybody else from the Department of
12 Labor.

13 Q. So you don't know whether Mr. Zaino
14 actually followed up with Debra Hall?

15 A. Well, I --

16 Q. I'm talking about knowledge now that the
17 APA has.

18 A. I do know that now that he did follow up
19 with Debra Hall. That he did do as he represented to
20 me that he would do.

21 Q. Were any changes suggested by the APA to
22 the AAA in response to the concerns raised in the
23 letter?

24 A. Did the APA -- I want to make sure I
25 understand your question. Did the APA suggest any

1 changes --

2 Q. Yes, sir.

3 A. -- to AAA?

4 Q. Yes, sir.

5 A. With -- when I spoke with Mr. Zaino, I
6 asked him if there was something we needed to change
7 because of this letter and all that, and -- and he
8 told me that there was not.

9 Q. Okay. Was it the APA or the AAA's
10 decision to use a change vote feature?

11 A. It was the -- it was the APA's decision to
12 use the change vote feature and that decision was
13 based upon representations made by AAA that the
14 change vote feature could be used and still be in
15 compliance with Federal law and regulations.

16 Q. Okay. To your knowledge, would -- strike
17 that.

18 To your knowledge, were there any
19 concerns voiced by APA members regarding the change
20 vote feature prior to the 2004 National Officer
21 elections?

22 A. Not to my knowledge.

23 Q. Okay. So to your knowledge, were there
24 any concerns expressed by APA voters regarding the
25 change vote feature after the election?